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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION  
13

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 HYE CHA KIM,

18 Defendant.  
19

No. CR 05-00395 CRB

REQUEST, STIPULATION AND ORDER

20 This matter is currently on the Court's calendar for September 20, 2006. Through  
21 counsel, defendant Hye Cha Kim and the United States ask the Court to (a) vacate the September  
22 20, 2006 date based on the defendant's anticipated plea agreement, (b) set a date of November 1,  
23 2006 for change-of-plea, and (c) exclude time under the Speedy Trial Act, 18 U.S.C. § 3161 from  
24 September 20, 2006, to November 1, 2006.

25 1. The parties are currently engaged in plea negotiations and request that the Court set the  
26 matter for November 1, 2006, for status/change-of-plea.

27 2. Based on the on-going negotiations, defense counsel needs time to review certain  
28 discovery. Further, government counsel will be out of district the first two weeks of September,

ORDER  
CR 05-00395 CRB

1 and on October 3, 2006, defense counsel is starting a 4-8 week trial before Judge Walker. The  
2 parties anticipate further discussions to resolve the case.

3 3. The parties agree that the time between September 20, 2006 and November 1, 2006  
4 should be excluded from the Speedy Trial clock. Previously, the Court has declared this case  
5 complex. See 18 U.S.C. § 3161(h)(8)(B)(ii). Further, defense counsel needs time to review  
6 additional materials from the government and investigate the immigration consequences of a plea  
7 agreement. The parties agree that a continuance is necessary for the effective preparation of  
8 defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. §  
9 3161(h)(8)(B)(iv). Further, given counsels' schedules, a continuance is appropriate based on  
10 continuity of counsel. Id. The parties also agree that the ends of justice served by excluding the  
11 period from September 20, 2006 to November 1, 2006 outweigh the interest of the public and the  
12 defendant in a Speedy Trial. See id. § 3161(h)(8)(A).

13 STIPULATED:

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16 September 14, 2006 /s  
DATE PETER B. AXELROD  
LAUREL BEELER  
17 Assistant United States Attorneys

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20 September 14, 2006 /s  
DATE SCOTT SUGARMAN  
21 Attorney for Hye Cha Kim

22  
23 **ORDER**


24 For good cause shown, and for the reasons stated above, the Court (a) vacates the September  
25 20, 2006, hearing date for defendant Hye Cha Kim based on the anticipated change-of-plea, (b)  
26 sets the matter for status/change-of-plea on November 1, 2006, at 2:15 p.m., and (c) excludes  
27 times under the Speedy Trial Act, 18 U.S.C. § 3161, from September 20, 2006 to November 1,

28  
ORDER  
CR 05-00395 CRB

1 2006. The Court finds that the failure to grant the requested exclusion would deny defense  
2 counsel reasonable time necessary for effective preparation taking into account the exercise of  
3 due diligence. Further, the Court find the exclusion warranted based on continuity of counsel.  
4 The Court also finds the exclusion warranted on complexity grounds, under 18 U.S.C. §  
5 3161(h)(8)(B)(ii). Thus, the Court finds that the ends of justice served by granting the requested  
6 exclusion outweigh the best interest of the public and the defendant in a speedy trial and in the  
7 prompt disposition of criminal cases. The Court therefore concludes that this exclusion of time  
8 should be made under 18 U.S.C. §§ 3161(h)(8)(A), (h)(8)(B)(ii) and (h)(8)(B)(iv).

9 IT IS SO ORDERED.

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11 DATED: Sept. 19, 2006

  
12 CHARLES R. BREYER  
13 United States District Judge  
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